

The Implementation of California Laws on Anti-Reproductive Rights Crimes

Report of the Advisory Committee
on Anti-Reproductive Rights Crimes

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The findings and recommendations expressed in this report are solely those of the Advisory Committee on Anti-Reproductive Rights Crimes, and should not be considered as representing those of any department or agency of the California State Government. The opinions and recommendations expressed in this report represent those of the majority of the members, and do not necessarily represent the positions of each individual organization. Some members did not or could not take positions on certain advocacy or legislative issues, including representatives of organizations that do not take positions on policy without a vote of the organization or agency.

Table of Contents

Executive Summary	1
 The Implementation of California Laws on Anti- Reproductive Rights Crimes	
I. Introduction	3
Background of California Anti-Reproductive Rights Crimes Legislation	3
Establishment and Work of the Advisory Committee	5
II. Findings of the Advisory Committee Based on the Review of Reports	6
Finding 1	6
Finding 2	9
Finding 3	11
Finding 4	12
Finding 5	16
III. Additional Work and Considerations by the Advisory Committee	22
Consideration 1	22
Consideration 2	23
Consideration 3	23
IV. Recommendations of the Advisory Committee	24
Recommendations to the Legislature	24
Recommendations to the Attorney General	26
Recommendations to the California Commission on the Status of Women	28
V. Conclusion	29
VI. Appendices	30
A. SB 780	31
B. SB 603	40

The Implementation of California Laws on Anti-Reproductive Rights Crimes

Executive Summary

During the 2001 Legislative Session, Senator Deborah Ortiz authored Senate Bill 780 – a bill developed as a response to criminal activity affecting the rights of individuals seeking to exercise their rights to reproductive health care. The bill enacted two new laws. **The California Freedom of Access to Clinics and Church Entrances Act (California FACE Act)** created state civil and criminal penalties for individuals interfering with a person's access to reproductive health care facilities or participation in religious services. **The Reproductive Rights Law Enforcement Act** directed the Attorney General to develop a plan, with input from subject matter experts, to prevent, apprehend, prosecute and report anti-reproductive rights crimes (ARRC). The Commission on Peace Officer Standards and Training (POST) was also directed to develop a training telecourse on anti-reproductive rights crimes.

Despite these new laws, reproductive health care providers and advocates continued to be frustrated in their attempts to get assistance from law enforcement agencies at the local level. As a result of their concerns, Senator Ortiz authored Senate Bill 603, to examine how well SB 780 had been implemented. SB 603 was signed in September 2006. SB 603 directed the California Commission on the Status of Women to convene an Advisory Committee on Anti-reproductive rights Crimes to examine the effectiveness of the implementation of the Reproductive Rights Law Enforcement Act and to review the plan developed by the Attorney General.

The work of the Advisory Committee, convened in 2007, identified the following:

Finding 1: The number of anti-reproductive rights crimes reported is understated.

Finding 2: POST training on the California FACE Act and the Reproductive Rights Law Enforcement Act is not mandated, and officers generally are unaware of their responsibilities under the law, including the enforcement of injunctions.

Finding 3: Some California cities and counties have established local buffer zones as a means of protecting clinics, their staff, clients and volunteers.

Finding 4: The content and process of developing the Attorney General's Plan failed to reflect accurately the knowledge, expertise and concerns of many reproductive health care providers.

Finding 5: The Attorney General's Plan was not an effective tool for implementation of the CA FACE Act and the Reproductive Rights Law Enforcement Act.

Of special concern to the Advisory Committee was the fact that the Attorney General's report to the Legislature, while it contained many excellent recommendations for addressing anti-

reproductive rights crimes, did not provide a specific plan for implementing them. As a result of their work over several months, the Advisory Committee developed the following recommendations: *(NOTE: Please see the report for full recommendations.)*

Recommendations

The Legislature should

1. extend the sunset date for the Reproductive Rights Law Enforcement Act to January 1, 2014.
2. adopt a statute similar to that of the State of Colorado that creates a no-approach bubble zone around any person within a buffer zone.
3. direct POST to develop guidelines and a model policy on ARRC reporting and enforcement that law enforcement agencies may adopt and include content on these topics in training requirements.

The Office of the Attorney General should

4. develop a simple information system, in consultation with the subject matter experts that served on the ARRC Advisory Committee, to inform reproductive health care providers of the Reproductive Rights Law Enforcement Act.
5. take the lead to plan and conduct briefings in key regions of the state where concern exists regarding anti-reproductive rights crimes.
6. present the ARRC reporting requirements during the statewide meetings of the California police chiefs' and sheriffs' associations.

The Commission on the Status of Women should

7. sponsor legislation in 2008 to extend the Reproductive Rights Law Enforcement Act sunset date and to direct POST to develop the model law enforcement policies and guidelines.
8. sponsor legislation in 2008 and subsequent years to implement other legislative recommendations of the advisory committee.
9. advocate for and monitor responses by the Legislature, Department of Justice (DOJ), and POST to the advisory committee's recommendations.
10. offer to provide assistance to the DOJ in consulting with ARRC subject matter experts.
11. develop a fact sheet on anti-reproductive rights crimes for use by clients, patients, and providers.

The Implementation of California Laws on Anti-Reproductive Rights Crimes

I. Introduction

This report was developed by the Advisory Committee on Anti-reproductive rights Crimes (ARRC) in response to the legislative directive in Senate Bill 603 to provide information and recommendations to the State Legislature on how the State of California addresses law enforcement issues related to anti-reproductive rights crimes.

In 1973, the United States Supreme Court legalized abortion in *Roe v. Wade*, a landmark decision where the Court held the constitutional right to privacy extended to a woman's decision whether or not to terminate her pregnancy. Since this decision, for almost three decades, many reproductive health care clinics, providers and women exercising their constitutional rights have been under siege by anti-abortion protesters. In some instances, the protestors have been multi-mission extremist individuals or groups who travel from state to state taking extreme action on issues including abortion, hate crimes, white supremacy, etc. Physicians, clinic workers, and volunteer escorts have been shot and murdered, clinics have been firebombed or burned down, and patients have been systematically intimidated.

Because of this violence, the U.S. Congress passed the Freedom of Access to Clinic Entrances (FACE) Act in 1994. Under this Act, federal law enforcement agencies were given tools with which to prosecute such major crimes. Federal law enforcement officials, however, were less effective at investigating and prosecuting those crimes that were less heinous.

In California, between 1994 and 2001, reproductive health care clinics, providers, and women seeking access to these services continued to be victims of crimes such as arson, assault and battery and vandalism, as well as other forms of intimidation. As a result, Senator Deborah Ortiz led efforts to pass a state law that would complement the federal FACE Act and provide state and local law enforcement agencies with additional tools to prosecute anti-reproductive rights crimes. Of special concern was assuring that volunteers and health care professionals providing clients with assistance were also protected by the law.

Background of California Anti-Reproductive Rights Crimes Legislation

SB 780 (Ortiz)

During the 2001 Legislative Session, Senator Deborah Ortiz authored Senate Bill 780 – a bill developed as a response to criminal activity affecting the rights of individuals seeking to exercise

their rights to reproductive health care. Signed by Governor Gray Davis, this bill enacted two new laws: The California Freedom of Access to Clinics and Church Entrances Act (FACE Act) and the Reproductive Rights Law Enforcement Act.

The California FACE Act added provisions to state law that created civil and criminal penalties for anyone (except parents or guardians) who, by force, threat of force or physical obstruction, intentionally injures, intimidates or interferes with a person's access to reproductive health care facilities or with a person's participation in religious services. This included reproductive health services clients, providers, or assistants.

The Act also made it a crime to damage or destroy property of a reproductive health facility or place of worship and provided for civil remedies.

The Reproductive Rights Law Enforcement Act specified duties for the Attorney General related to planning, information gathering, and analysis of anti-reproductive rights crimes, as defined in the law. It required the Attorney General to do the following:

- Collect and analyze information relating to anti-reproductive rights crimes, including, but not limited to, the committing of these crimes and persons suspected of committing these crimes or making these threats. This information shall be made available to federal, state, and local law enforcement agencies and prosecutors in California.
- Direct local law enforcement agencies to report to the Department of Justice any information that may be required relative to anti-reproductive rights crimes. Such reports are to note both the subdivision of Section 432.2 that is violated and the subdivision of any other law that prohibits the crime.
- Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive rights crimes and make a report on the plan to the Legislature by December 1, 2002, including recommendations for any other necessary legislation.
- Beginning with July 1, 2003, and every July 1 thereafter, submit a report to the Legislature analyzing the information collected relating to anti-reproductive rights crimes.
- Make a report to the Legislature in 2005 evaluating the implementation of the Act and the Attorney General's Plan, including a recommendation concerning whether the Legislature should extend or repeal the sunset date in Section 13779, and provide recommendations for other necessary legislation.
- In carrying out these responsibilities, consult with the Governor, the Commission on Peace Officer Standards and Training, and other subject matter experts. The Act defined who subject matter experts were.

The Act also directed the Commission on Peace Officer Standards and Training to develop a training telecourse on anti-reproductive rights crimes for use by law enforcement officers. A copy of SB 780 is provided as an attachment to this report.

SB 603 (Ortiz)

Despite the enactment of SB 780 and annual reports from the Attorney General's office, individuals and clinics in California continued to be frustrated in their attempts to get assistance from local law enforcement agencies. As a result, Senator Deborah Ortiz authored legislation, SB 603, to assess the effectiveness of implementation of SB 780. In September 2006, Governor Arnold Schwarzenegger signed this bill into law. The Act's purpose was the following:

- Extend the Reproductive Rights Law Enforcement Act sunset date to January 1, 2009.
- Redefine "subject matter experts" on anti-reproductive rights crimes to include the Attorney General's office, the California Council of Churches, Women's Health Specialists, and the Commission on the Status of Women.
- Require the California Commission on the Status of Women to convene an advisory committee of subject matter experts to report to the Committees on Health, Judiciary, and Public Safety of the Senate and Assembly; to the Attorney General, the Commission on Peace Officer Standards and Training; and the Commission on the Status of Women on the implementation of the Reproductive Rights Law Enforcement Act and the effectiveness of the plan developed by the Attorney General, by December 31, 2007.
- Provide that the Commission on Peace Officer Standards and Training shall make the telecourse it developed on anti-reproductive rights crimes available for review by the Advisory Committee.

The purpose of this document is to address whether the implementation of the California reproductive rights laws provides adequate protection of the law to individuals - and those people who may assist them - who seek to exercise their constitutional right to reproductive health care.

Establishment and Work of the Advisory Committee

In response to SB 603, the Commission on the Status of Women contacted each of the organizations identified in the legislation as subject matter experts. With the exception of two organizations, each group appointed a member to serve on the Advisory Committee. In addition, the Commission invited the following individuals to serve on the Committee based on their expertise in specific areas: Senator Ortiz; Gregory deGiere, former staff to the Senate Office of Research, Destiny Lopez, Executive Director of ACCESS; and, Roy Hubert, representing the California District Attorney's Association. While representatives of the California Sheriffs' Association and Police Chief's Association were invited to participate, their participation was minimal.

The Advisory Committee met five times to review the Attorney General’s plan, evaluate the implementation of SB 780, and to consider additional concerns from health clinic personnel and advocates.

II. Findings of the Advisory Committee Based on the Review of Reports

Finding 1: The number of anti-reproductive rights crimes reported is understated.

Data from the California Department of Justice Reports

The Reproductive Rights Law Enforcement Act requires all local law enforcement agencies to submit monthly reports to the Criminal Justice Statistics Center, Department of Justice, on the number of anti-reproductive rights crimes that have occurred in their jurisdiction. Below is a chart providing data from reports 2003 through 2006.

Given the size of the State of California and the number of reproductive health care clinics (2,100, including both family planning clinics and abortion providers), the Advisory Committee found these crimes to be underreported. Several members on the committee had experience as staff or as volunteers at reproductive health care clinics. Their experiences with ARRC incidents, which in many cases received no action from law enforcement agencies, indicated to the Committee that there were more anti-reproductive rights incidents committed than the number of ARRC reports submitted. Of interest is the fact that no sheriff’s department has reported any ARRC to date despite the fact that many reproductive health clinics are in their jurisdiction. Clinic personnel on the Advisory Committee confirmed that ARRCs have occurred in the jurisdiction of sheriff’s departments.

Georgia Fong, Assistant Bureau Chief, Justice Information Services Division of the Criminal Justice Statistics Center, provided the committee with information about the reporting system for anti-reproductive rights crimes. A total of 733 law enforcement agencies are mandated to report every month, even if the report indicated *no* incident or crime occurred.

Anti-Reproductive Rights Crimes in California 2003-2006				
County and Jurisdiction	Number of Crimes			
	2003	2004	2005	2006
Total	10	8	9	4
Butte County – Chico PD	1			1
Contra Costa County – Pleasant Hill PD				
Contra Costa County – Concord PD		1	1	
Kern County – Bakersfield PD		1		
Los Angeles County – Glendale PD			2	1
Los Angeles County – Whittier PD	2			
Marin County – San Rafael PD			2	
Orange County – Orange PD	1		1	
Riverside County – Palm Desert PD		1		
Riverside County – Riverside PD		2	2	1
San Joaquin County – Stockton PD		1		1
San Luis Obispo County – San Luis Obispo PD	3			
Shasta County – Redding PD	1	1		
Solano County – Vallejo PD		1		
Sonoma County – Santa Rosa PD	1			
Stanislaus County – Modesto PD	1		1	

Training is provided upon request to local law enforcement records supervisors on how to report statistics. Training is not, however, provided to patrol officers who often are the personnel most likely to respond to anti-reproductive rights calls. SB 780 did not mandate ARRC training for law enforcement officers due to fiscal impact on local government. Data from the Criminal Justice Statistics Center indicates that nearly 100% of the agencies filed monthly reports, but only four incidents of ARRCs were reflected in the report to the Attorney General's office in 2006. (See chart above)

The crimes reported in the chart included arson, vandalism, assault, and assault and battery. In addition, malicious mischief was reported.

Local Anecdotal Data on Incidents/Crimes

At the local level, anecdotal evidence shows that there are sometimes numerous calls for assistance to law enforcement, without any resulting reports of crimes. For example, Katrina Cantrell, Associate Executive Director of Women's Health Specialist reported that on December 1, 2007, she telephoned a Redding Police Department Lieutenant, a designated liaison, to compare data (incident reports) between both agencies.

Police data showed that 21 calls to their office had been generated by staff of the Clinic. The Lieutenant reported an additional 74 calls for service generated by other sources, which he identified as community members. Despite local law enforcement sources verifying these incidents, none appear to have been reported to the Attorney General's Office and thus not reflected in the Criminal Justice Statistics Center Anti-reproductive rights Crimes 2006 report. These incidents were not reported by local law enforcement to any other agency, including the Attorney General's office.

The Advisory Committee determined that there were numerous unresolved reporting questions: Were any of these incidents "crimes?" If so, were they not reported as crimes because officers lack knowledge of what constitutes an anti-reproductive rights crime? With more knowledge on the part of the officers, would the clinic staff, clients, and volunteers have been safer? The Advisory Committee found it difficult to believe that of the 95 calls, none could be considered an anti-reproductive rights crime.

This example highlights the additional problem of lack of communication on anti-reproductive rights crimes between the local law enforcement agencies and the Department of Justice.

National Data: Anti-reproductive rights Crimes in California

Three pro-choice organizations at the national level collect data regarding anti-reproductive rights crimes. They are the National Abortion Federation (NAF), Planned Parenthood Federation of America (PPFA), and the Feminist Majority Foundation. Among the purposes of the data collection is to track individuals who are known to move from one state to another specifically to protest at clinics, and in many cases, instigate anti-reproductive rights crimes. For example, a fairly recent incident in Sacramento involved an individual who associated with a group that had participated in violence in New York State and other sites in the United States. Many individuals have been identified by law enforcement and national reproductive rights organizations as multi-mission (anti-abortion, anti-gay rights, etc.) extremists and warrant special attention in tracking them as reproductive health clinics may be potential targets.

The data collected includes reports of crimes as well as incident reports. Data is collected from reproductive health care providers and who asked to provide information regarding any legal action on record for any incident. A review of the National Abortion Federation incident data received for California for 2006 indicates at least 17 incidents were reported to them that met the definition of an anti-reproductive rights crime. This self-reported data only represents a portion

of the clinics in California, and yet it is more than four times as many crimes as were reported to the Attorney General's office.

From this information, the Advisory Committee concluded that law enforcement officers may not be reporting vandalism, burglary, trespassing, and threats at clinic sites as anti-reproductive rights crimes. In the reporting process, the crimes should be reported both as ARRC crimes and also in any other relevant crime category.

Finding 2: POST training on the California FACE Act and the Reproductive Rights Law Enforcement Act is not mandated, and officers generally are unaware of their responsibilities under the law, including enforcement of injunctions.

Telecourse: Commission on Peace Officer Standards and Training (POST)

SB 780 required POST to develop a telecourse to train law enforcement officers about the California FACE Act and the Reproductive Rights Law Enforcement Act. POST diligently worked with ARRC subject matter experts in developing a two-hour telecourse in 2002. Prior to the first meeting, members of the Advisory Committee reviewed the telecourse and found it to be an excellent tool for training.

The content of the telecourse included indicators of potentially criminal behavior, victims and types of crimes, a legal update, preventive measures, responding to possible ARRCs, and support services. Scenarios conveyed some of the strategies officers might use. The telecourse, however, provided only minimal information on reporting requirements.

In their review of the telecourse, the Advisory Committee also determined that the telecourse does not clearly explain how and in what manner to enforce injunctions or the right of women to be left alone when federal and state law, local ordinances, and injunctions restrict the right of protestors to talk to women entering clinics (a balance of personal rights).

Individuals in the video included representatives of both pro- and anti-reproductive rights organizations, some of whom had personal experience with ARRC violence in their work. After the video was completed, one individual requested that the distribution of the video be very controlled because she feared for her personal safety as she had learned that an extremist she knew from another state had moved to California and was involved in the anti-choice movement. As a result, the telecourse was only broadcast on two occasions in February of 2002. Unless a local law enforcement agency downloaded the telecourse on one of those two occasions or requested a copy from POST, the local reporting agencies did not have access to the ARRC telecourse.

In order to determine the extent the telecourse was used, Commission on the Status of Women staff conducted a phone sampling of training coordinators at county sheriff offices and local police departments. After a brief explanation about the Advisory Committee on ARRC and

reference to the 2001 California FACE Act and the Reproductive Rights Law Enforcement Act, the primary question was, “Do your officers receive training on anti-reproductive rights crimes or California law regarding them, including the CA FACE Act?”

Each individual interviewed consistently responded that they had no knowledge about the FACE Act and that no training had been provided. When asked about the telecourse, none of the respondents was aware of this training tool.

Information from Reproductive Health Care Providers on Injunctions

At almost every meeting of the Advisory Committee anecdotal information was provided about the response of law enforcement to calls regarding ARRC incidents. Various clinics across the state have obtained injunctions to help protect clients, staff and volunteers. However, in many cases law enforcement provides little or no assistance in the enforcement of the injunction. In one community, the police station is directly across the street from the clinic. Information was provided that police would come out and tell protesters to quiet down if the noise interfered with police work, but they did not respond to clinic calls regarding noise.

As another example, in 2003, a permanent injunction was granted in Sacramento Superior Court against five named individuals and anyone “acting in concert” with them while in front of a women’s health services clinic in Sacramento. The injunction sets restrictions on a number of protesting activities, including taking photographs of anyone entering or leaving the clinic.

The Executive Director of the women’s health services clinic made several efforts during the first year of the injunction to meet with the Sacramento Sheriff’s Department to enforce the injunction, with little success. As a result, there is still confusion and lack of enforcement of the injunction. For example, in the fall of 2003, both Sheriff’s Department officers and protestors were present in front of the clinic. The officer was given a copy of the court order and specifically asked to look at the section that prohibited photography. When a protestor took a picture of the Executive Director and the officer, the officer said to her, “Smile, you’re on candid camera,” in total disregard of the court order’s restrictions. In ensuing years, the Sheriff’s officers have not enforced the injunction.

Several communities have established buffer zones to provide safe access for clients. But in one community the buffer zones are violated weekly with no enforcement by the police.

The Advisory Committee concluded that the lack of access to the training telecourse and absence of a mandate to train law enforcement officers on ARRC in SB 780 was a casual factor in law enforcement agencies’ limited knowledge about the law.

Finding 3: Some California cities and counties have established local buffer zones as a means of protecting clinics, their staff, clients and volunteers.

Buffer Zone Ordinances in California

In California, several cities have adopted local ordinances related to protests, picketing, and buffer zones both at residences and at clinics. These include Davis, Glendale, Huntington Beach, Irvine, Los Angeles, Riverside, Sacramento, San Diego, San Francisco, San Jose, Santa Ana, Solano Beach and Tustin. Other communities are considering adopting them. The provisions and enforcement levels vary significantly from community to community.

The Senate Office of Research Report presented an option that the State of California enact buffer zone legislation. Representatives of many reproductive health care clinics have strong interest in the State of California enacting such legislation.

Buffer Zones Enacted in Other States

In recent years, legislation establishing “buffer zones” has been enacted in several states to better protect the rights of staff, clients, or volunteers at clinics. A buffer zone is a space around a clinic that cannot be violated by protestors. Montana, Colorado and Massachusetts have all passed such laws. There have been legal challenges against various buffer zone laws. The Colorado statute was challenged in the U.S. Supreme Court. The Court found in favor of the State of Colorado and held that the law did not violate the Constitution.

The Colorado buffer zone statute (Colo. Rev. Stat. § 18-9-122 (3)) regulates speech-related conduct within 100 feet of any entrance to a health care facility. Specifically, the statute states “No person shall knowingly approach another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area within a radius of one hundred feet from any entrance door to a health care facility.” The statute was challenged on constitutional grounds in *Hill v. Colorado*, 530 U.S. 703 (2000) 973 P.2d 1246. The United States Supreme Court (Supreme Court) upheld the validity of the statute, rejecting the petitioners’ argument that the law violated the Federal Constitution’s First Amendment right to free speech.

The Supreme Court in *Hill* specifically held that the Colorado statute did not violate the First Amendment. The Supreme Court stated that the State’s police powers to protect its citizens’ health and safety could justify a special focus on access to health care facilities and the avoidance of potential trauma to patients associated with confrontational protests. The Court found that the statute was a regulation of places where some speech may occur, not a “regulation of speech,” and that the restrictions applied to all demonstrators, regardless of viewpoint, and made no reference to the content of speech. The Court also concluded that § 18-9-122 (3) was a valid time, place, and manner regulation because it was narrowly tailored to serve the State’s significant and legitimate governmental interests and left open ample alternative communication

channels. Finally, the Court found that the statute did not impose an unconstitutional “prior restraint” on speech. In making its findings, the Court noted that while the statute prohibited speakers from approaching unwilling listeners, it did not require a standing speaker to move away from anyone passing by, nor did it place any restriction on the content of any message anyone wished to communicate.

The majority of the Advisory Committee supported the concept of state buffer zone legislation. Subsequent to the Committee’s decision to recommend buffer zone legislation we were informed that representatives from some organizations expressed concern about adoption of a state buffer zone law.

Finding 4: The content and development of the Attorney General’s Plan failed to reflect accurately the knowledge, expertise and concerns of many reproductive health care providers.

NOTE: Because of its length the full report is not an attachment to this document. The Report can be found at <http://ag.ca.gov/cjsc/publications/misc/net780/rpt.pdf>. Or search for “Special Report to the Legislature on Senate Bill 780.”

In August 2003, the Office of Attorney General Bill Lockyer presented a “Special Report to the Legislature on Senate Bill 780: California Freedom of Access to Clinic and Church Entrances Act and Reproductive Rights Law Enforcement Act.” This report was sent to the Legislature as the “plan” required by SB 780 for implementation of both the California FACE Act and the Reproductive Rights Law Enforcement Act.

The report included a survey of the literature on anti-reproductive rights crimes from both national and California sources. It also references the Senate Office of Research report developed by Gregory deGiere. The literature review includes an analysis of trends around the United States regarding access to abortion services, theoretical explanations of abortion-related violence and its effects and remedies as well as potential strategies from the literature review to use to combat anti-reproductive rights crimes.

The Advisory Committee on ARRC reviewed the Attorney General’s report extensively. While many of the recommendations in the Plan are appropriate, the Committee found the report flawed and identified significant and troubling oversights.

- **Limited Review of the Literature**

The research cited a very limited number of books and articles written at the time about reproductive rights issues. As a result, valuable insights were not included in the document. Examples of pertinent literature not referenced include Wrath of Angels: The American Abortion War, James Risen and Judy L. Thomas, Basic Books, 1998; Drawing the Line Against Anti-Abortion Violence and Harassment, NOW Legal Defense and Education Fund with The Feminist Majority Foundation, Arlington, VA, 1996, revised 2002; Targets of

Hatred: Anti-Abortion Terrorism by Patricia Baird-Windle, MacMillan, 2001; and several reports from the Southern Poverty Law Center regarding anti-reproductive rights crimes.

- **Failure to Consult with Subject Matter Experts**

SB 780 – (Penal Code Section 13777(b)) – directed the Attorney General to consult with “subject matter experts” in all aspects of the work of his office on anti-reproductive rights crimes. While the report does cite two studies prepared by designated ARRC subject matter experts. But, except for limited conversation in advance of developing the report, it appears that little effort was made by the Attorney General’s office to convene and consult with the specified experts. The only outreach to individuals from the reproductive health arena was through disseminating and collecting the surveys. The organizations specified in the law were not contacted for individual input nor was a representative group of individuals convened to serve as an advisory committee to the development of the report.

The report failed to accurately reflect the knowledge, expertise, and concerns of the more than 2100 reproductive health care providers in the State of California.

- **Limited Input on Identification of Possible Strategies**

Twenty-six strategies were identified from the literature review. However, little input was sought from subject matter experts or individuals working with reproductive health clinics to identify effective strategies. Additionally, these groups were not asked to provide additional questions that may have proven valuable to ask in a statewide survey. The Attorney General’s survey was developed and administered as a means of validating which strategies from the literature would be appropriate in a plan for the State of California. The survey was sent to reproductive health facility staff, police officers, and prosecutors in 25 counties in California.

- **Flawed data analysis**

The survey results reported in the Attorney General’s report were used to support the particular strategies recommended. Unfortunately, the questions, the sampling process and the methodology used in interpreting the survey failed to adequately represent reproductive health care providers and the issues they face.

1) Overestimates of validation survey response rates

The Response Rate as Reported in the Attorney General’s Report

The Attorney General’s report provides validation survey response rates by evaluating the proportion of agencies that responded by type of agency.

Police: 20 agencies responded/33 agencies surveyed (61%)

District Attorneys: 13 agencies responded/25 agencies surveyed (52%)

Health Care Facilities: 16 agencies responded/47 agencies surveyed (34%)

An Alternative Analysis of the Response Rates

A more accurate reflection of the survey response rate would be to evaluate the actual number of surveys returned, based on the total number of expected responses, by type of agency.

Police: 40 surveys received/99 surveys expected (40%)

District Attorney: 15 surveys received/75 surveys expected (20%)

Health Care Facilities: 37 surveys received/188 surveys expected (20%)

Based on these limited response rates, the usefulness of the validation survey and any recommendations based on such a survey are called into question.

2) Inappropriate data analysis and interpretation

While the proportional odds model applied to the validation survey data was appropriate to the type of data presented, it did not yield useful results.

Results summarized in Appendix Table 2.4 of the report tell us that there are differences in survey responses between agencies. The cumulative odds ratios reported show statistically significant response differences between agencies. However, these odds ratios cannot tell us whether one agency is more or less likely to agree with a particular strategy than another agency.

The results from Table 2.5, alternatively, show that there is a difference between those who agree and those who disagree with any given strategy, by agency type. In other words, it tells us that the difference in survey responses was due to true differences of opinion, not due to random chance. It does not indicate whether there is stronger agreement or disagreement with any given strategy by agency.

These analyses, while mathematically appropriate, shed little light on the meaning of the survey responses or the applicability of these responses to the proposed strategy recommendations.

- **Over-reliance on the Police Executive Research Forum Study**

Of special concern is that the major resource used in the development of the report and recommendations was a national report funded by the Police Executive Research Forum (PERF), *Conflict and Rights: Public Safety and Abortion Clinic Conflict and Violence*, 1999, Kenney, Rose, Shelley, et al. The Attorney General's report states that the PERF report "provides the most exhaustive review of what is known about abortion-related conflict and violence in the United States since the Roe v. Wade decision." The perception of the Advisory Committee is that some of the strategies and conclusions extracted from the PERF report by the Attorney General's office reflect commonly held biases that continue to hinder enforcement of the federal and California FACE Acts.

One of the Attorney General's recommendations based on the PERF report was of special concern to the Advisory Committee - that law enforcement agencies categorically prohibit

officers from accepting secondary employment at places where anti-reproductive rights crimes may occur. (See page 22 of this document for recommendation 16 in the Attorney General's report.) This exclusion singles out victims and potential victims of a particular category of crime and effectively discriminates against ARRC victims and potential victims by restricting the protection that might be available to other individuals. It is unlikely that society would tolerate this sort of discrimination against most other categories of crime victims.

The language of the PERF report minimizes the actual situation at clinics. The term "conflict" has been substituted for "violations" and "crimes" against reproductive health care facilities or individuals. The cover of the Attorney General's report reflects the same misunderstanding. It shows a demonstration/counter-demonstration situation, which is not an anti-reproductive rights crime.

- **Failure to Examine Inter-State Criminal Activity Regarding Anti-reproductive rights Crimes**

While the Attorney General's report cited survey information from the Feminist Majority's 2002 National Clinic Violence Survey regarding clinic violence from the clinic perspective, including inter-state criminal activity, questions in the California Survey did not ask whether local clinics had encountered or had any experiences with criminal extremists from outside of California. The Attorney General's report seemed to accept at face value the general conclusion of local law enforcement personnel cited in the PERF report that "locally-based groups, with a mix of local and non-local residents, were responsible for initiating the abortion-related conflicts and violence in their communities." (page 18 of the Attorney General's report) The experience of clinics across the nation, however, belies this perception. Law enforcement agencies have taken the position that what is involved in anti-reproductive rights crimes is competing interests rather than crimes. Their view seems to be that if everyone were polite, none of this would happen.

National organizations, including National Abortion Federation (NAF), Planned Parenthood Federation of America (PPFA), and the Feminist Majority Foundation have charted the national network for the individuals, who are responsible for the worst violence, and they are not local, but national networks. That is why federal involvement is also essential.

The report gave equal weight to responses from law enforcement and the clinics. However, the purpose of the law is to protect individuals. This includes clinic staff and volunteers who provide services to them. Of the 26 recommendations included in the survey for possible inclusion in a plan for the State of California, the report ultimately selected 16, although the clinics supported almost all of the recommendations in the survey.

- **The Report is a Set of Strategies, not a Plan for Implementing Them**

The report to the Legislature states on page 7, "This report provides the required plan, outlining strategies to prevent, report, apprehend, and prosecute anti-reproductive rights crimes. It is recommended that the details of an implementation plan for each strategy in the plan be developed by the Commission on POST."

Of great concern to the Advisory Committee is that no real plan was ever developed. Recommendations were never made to the Legislature by the Attorney General for the legislation necessary to have POST develop plans for each of the strategies identified in this report.

Finding 5: The Attorney General's Plan was not an effective tool for implementation of the CA FACE Act and the Reproductive Rights Law Enforcement Act.

The Effectiveness of the Attorney General's Plan

As noted earlier in this report, individuals who completed the survey conducted for the Attorney General's report were in agreement that they could support most of the recommendations in the plan. The Advisory Committee that developed the ARRC Report would agree with them.

However, the Attorney General's recommendations are simply recommendations and do not constitute a plan for implementation of the FACE Act and Reproductive Rights Enforcement Act. After the report was presented to the Legislature, there was no further action by the Office of the Attorney General to carry out any of the strategies included in it.

The Advisory Committee carefully reviewed the strategies identified in the report and assessed the likelihood of effectiveness today, seven years later. The left hand side of the following table provides the original recommendations from the Attorney General's report. The right hand side of the table provides comments and suggested changes from the Advisory Committee.

The Advisory Committee's recommendations on further actions regarding anti-reproductive rights crimes are on pp. 24 to 29 of this report.

Table 1: Review of Attorney General’s Recommendations

Recommendations from The AG’s Report	Effectiveness of the Plan
<p>PREAMBLE to Recommendations: It is recommended that the plan to prevent, report, apprehend, and prosecute anti-reproductive rights crimes in California should include the following 16 strategies. The plan component (prevention, PRE; reporting, REP; apprehension, APP; or prosecution, PRO) has been indicated for each strategy.</p>	
<p>#1 Law Enforcement Agencies Should Train Officers (Plan Impact PRE, APP): Law enforcement agencies should provide training to officers on local and federal laws pertaining to demonstrations and protests, First Amendment rights, and reproductive rights of patients. This training should include educating officers about stakeholders’ perceptions and perspectives, discussing Pro-Life and Pro-Choice beliefs to sensitize officers to the language surrounding the abortion issue, and other relevant information about recurring abortion-related incidents.</p>	<p>The Advisory Committee supports this recommendation, with the following additions:</p> <ul style="list-style-type: none"> • Include training on state laws and threat assessment • Use the term Anti-Choice consistently.
<p>#2 Law Enforcement Agencies Should Train Dispatchers (Plan Impact APP): Law enforcement agencies should provide training to dispatchers concerning deployment procedures, communications, and appropriate language when handling calls for service in abortion-related conflicts.</p>	<p>The Advisory Committee supports this recommendation with the following additions:</p> <p>Dispatchers should be provided cautionary notation in communication systems for 911 and 411 calls with clinic addresses, nearby resident and business addresses, and clinic staff and provider home addresses.</p>
	<p>NOTE: Recommendations 3 through 8 all deal with large events. They are still appropriate today although there have not been as many large events in recent years.</p> <p>During the years prior to the writing of</p>

	<p>Attorney General’s report, large events were common. The Attorney General’s recommendations reflect this. However, tactics and strategies have changed somewhat and the more common day-to-day events are less likely to be large events.</p>
<p>#3 Law Enforcement Agencies Should Establish Event Guidelines (Plan Impact PRE):</p> <p>Before a planned event, a law enforcement officer should meet with leaders from the Pro-Life-and Pro-Choice movements to: (a) establish guidelines which outline acceptable behavior, (b) discuss police procedures for violations of these guidelines, and (c) discuss and distribute written information concerning injunctions and relevant laws.</p>	<p>The Advisory Committee supports this recommendation with the following addition:</p> <p>All clinics should be provided with written copies of relevant injunctions and laws.</p>
<p>#4 Law Enforcement Agencies Should Enforce the Rules (Plan Impact APP):</p> <p>After establishing guidelines and explaining them to participants, law enforcement officers should take consistent and assertive action in response to violations.</p>	<p>The Advisory Committee supports this recommendation.</p>
<p>#5 Law Enforcement Agencies Should Establish Physical Boundaries (Plan Impact PRE):</p> <p>When possible, law enforcement officers should clearly mark injunction and police zones to prevent possible disputes over legally protected territory including designating areas or establishing barriers if counter- demonstrators are present.</p>	<p>The Advisory Committee supports this recommendation.</p>
<p>#6 Law Enforcement Agencies Should Determine Appropriate Personnel Deployment at Planned Events (Plan Impact PRE, APP):</p> <p>To enforce physical boundaries and event guidelines, law enforcement agencies must carefully assess the number of on-scene officers</p>	<p>The Advisory Committee supports this recommendation.</p>

necessary to manage each event because under- or over-deployment of personnel send a message of bias.	
<p>#7 Law Enforcement Agencies Should Assign Officers as Contacts to Participant Groups (Plan Impact PRE, APP):</p> <p>At large events, in addition to tactical assignments and where resources allow, two or more officers should be assigned as primary contacts to the participant groups. Different officers should be assigned to the clinic, to Pro-Life-demonstrators, and to Pro-choice demonstrators. The purpose of this strategy includes: (a) ensuring that participant issues and needs are addressed and communicated, and (b) allowing officers to communicate with participants.</p>	<p>The Advisory Committee supports this recommendation with the recommendation that Pro-Life be replaced with Anti-Choice.</p>
<p>#8 Law Enforcement Agencies Should Establish Arrest Procedures (Plan Impact PRE, APP, PRO):</p> <p>After establishing guidelines for demonstrations, law enforcement should clarify to participants what constitutes a violation, then establish detainment procedures for arresting individuals who violate the law. These procedures should include establishing teams to: (a) make the majority of the arrests (arrest teams); (b) document all relevant information during the arrest procedure (booking/processing teams); and (c) transport the arrestees to the detention facility (transport teams). In addition, officers should have an event response kit containing camera equipment along with copies of injunctions and guidelines pertaining to the event.</p>	<p>The Advisory Committee supports this recommendation.</p>
<p>#9 Law Enforcement Agencies Should Hold Post-Event Briefings (Plan Impact PRE, APP, PRO):</p> <p>After an event, the involved law enforcement agency should hold internal post-event briefings</p>	<p>The Advisory Committee supports this recommendation.</p>

to evaluate its responses and ability to manage the incident. During these meetings, law enforcement officers, tactical planners, and others involved in the event should: (a) review department policies and procedures; (b) analyze the effectiveness of law enforcement's response; and (c) consider additional training for department personnel.	
	Recommendations 10 and 11 are germane to the day-to-day experiences of clinics.
<p>#10 Law Enforcement Agencies Should Have Guidelines for Handling the Response (Plan Impact PRE, APP, PRO):</p> <p>To minimize tensions during abortion- related calls for service, responding officers should: (a) use neutral and non-confrontational language; (b) meet with spokespersons from each of the issue's partisans to determine what is alleged to have occurred; (c) clearly communicate reasons for action or inaction; (d) gather any existing evidence of the reported incident or problem; and (e) have a response kit that includes copies of relevant laws and injunctions for use in answering calls for service.</p>	<p>The Advisory Committee supports this recommendation with the following addition:</p> <p>Provide clinics with response kits that contain helpful information including relevant laws and injunctions that could be used by law enforcement.</p>
<p>#11 Law Enforcement Agencies Should Have Guidelines for Supervisory Approval (Plan Impact APP):</p> <p>To assist law enforcement officers responding to abortion-related calls for service, officers should have sufficient guidelines to ensure that most actions do not require supervisory approval.</p>	<p>The Advisory Committee agrees with this recommendation.</p> <p>In the Committee's recommendations provided later in this document, the Committee requests that POST develop model guidelines for use by law enforcement agencies.</p>
<p>#12 Law Enforcement Agencies Should Collaborate With Other Law Enforcement Agencies (Plan Impact PRE, APP, PRO):</p> <p>Law enforcement agency leaders should establish formal relationships with other law enforcement agencies for sharing information</p>	<p>The Advisory Committee agrees with this recommendation.</p> <p>The Advisory Committee is particularly concerned that law enforcement officers become aware of the network of people who are moving across the country with an anti-</p>

about abortion-related conflicts in other locations.	reproductive rights domestic terrorism agenda.
<p>#13 Law Enforcement Agencies Should Have Guidelines for Confidentiality of Clergy (Plan Impact PRE, REP):</p> <p>Law enforcement and clergy should establish, in advance, ground rules for managing confidential information and identifying, diverting, and responding to potentially violent persons.</p>	<p>The Advisory Committee disagrees with this recommendation because guidelines for confidentiality on the part of clergy are already in place in the California Code (Evidence Code Section 1030-1034).</p> <p>The Advisory Committee does agree that law enforcement agencies should establish working relationships with clergy and religious organizations as a means of possibly preventing anti-reproductive rights crimes. This should include the sharing of information relevant to possible anti-reproductive rights crimes, if obtained outside of penitential communication with a clergy member.</p>
<p>#14 Law Enforcement Agencies Should Collaborate With the Criminal Justice System (Plan Impact APP, PRO):</p> <p>Collaborative arrangements should be established among law enforcement agencies, legal liaisons, judges, local prosecutors, U.S. Attorneys, jails, and other agencies tasked with criminal justice system responsibilities related to anti-reproductive rights crimes.</p>	<p>The Advisory Committee agrees with this recommendation.</p> <p>The Committee also identified the need for federal and state prison officials to provide to local law enforcement and national advocacy groups the current photographs, release dates, and release sites for any prisoners incarcerated for ARRC. This will allow law enforcement and advocates to be alert to potential problems reoccurring.</p>
<p>#15 Law Enforcement Agencies Should Communicate With Other Interested Parties (Plan Impact PRE, REP):</p> <p>To gain additional perspectives about conflicts of community concerns, law enforcement officers should communicate regularly with business owners and residents in areas affected by abortion-related conflicts. This will aid in the apprehension of law violators by encouraging business owners and residents to report suspicious persons or activities to law enforcement.</p>	<p>The Advisory Committee agrees with this recommendation.</p>

<p>#16 Law Enforcement Officers Should Not Work as Security at Clinics and Events (Plan Impact PRE, REP, APP): Off-duty employment of law enforcement officers by clinics or Pro-Life or Pro-Choice organizations should be avoided because it interferes with officers’ ability to maintain a neutral identity and standing when responding to abortion-related conflict or violence calls for service.</p>	<p>The Advisory Committee disagrees with this recommendation.</p> <p>As noted earlier, this recommendation treats victims and potential victims of anti-reproductive rights crimes differently from those of other crimes — a discriminatory act.</p>
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As is apparent, the Advisory Committee agreed with most of the recommendations in the Attorney General’s Report. Following are the Advisory Committee’s suggestions for moving forward.

III. Additional Work and Considerations by the Advisory Committee

Consideration 1: Implement measures to collect more accurate statistics on anti-reproductive rights crimes.

During their deliberations, the Advisory Committee developed several recommendations that were broader than the recommendations requested through Senate Bill 603. The participation of reproductive health care clinic staff provided important information that more closely reflects the actual incidents of anti-reproductive rights at clinic sites, as well as the needs of staff. At the first meeting, the Committee developed a list of strategies that might result in better law enforcement and more accurate statistics on Anti-reproductive rights Crimes.

- Empower clinics to follow up and make sure reports they make are reported by local law enforcement to the Attorney General’s office.
- Train clinic personnel to report any crimes on a regular basis.
- Work with elected officials to encourage appropriate police response to crimes at clinics.
- Create a system for clinic staff to periodically track local law enforcement reporting rates to the Attorney General’s Office.
- Request that the CA FACE Act and Reproductive Rights Law Enforcement Act be included in law enforcements agencies’ annual “new laws” training, even though the law is not technically a “new” law.
- Create an on-line reporting system for anti-reproductive rights crimes.

- Provide all clinics with a standard ARRC reporting form, a copy of the statute, notice of their rights under the law, and a phone number to report occasions when the police are not enforcing the law.
- Encourage clinics to contact federal law enforcement officials when local law enforcement is not responding to calls at clinics. There currently is a concern that if one contacts federal officials, he or she may be seen as a whistle blower by local law enforcement, resulting in a decreased willingness to respond to clinic calls.

Consideration 2: Increase training of law enforcement and clinics on anti-reproductive rights laws.

The committee also discussed contacting both law enforcement and reproductive health care clinics to make them both more aware of the law on ARRC. Some of the ideas considered:

- Send a letter to police chiefs and sheriffs, copied to district attorneys, regarding ARRC training resources available, reporting requirements, etc.
- Send a letter to clinics to remind them to continue to make reports to law enforcement and keep an internal log of incident reports.

While the Committee believes such correspondence would be valuable, it was not possible, nor was the Committee directed to perform these tasks. As further implementation of the law takes place, the Committee expects that the information necessary for both law enforcement and clinic staff will be communicated through various channels.

Consideration 3: Continue working with the Commission on Peace Officer Standards and Training to update its training course on anti-reproductive rights crime laws and make the course mandatory.

During the work of the Advisory Committee, representatives of POST provided excellent assistance. In response to the discussions of the Committee, POST moved forward on several issues.

- **Bulletin on California Reproductive Rights Laws:**
On November 29, 2007, POST released a bulletin to all law enforcement agencies reiterating the information contained in the California FACE Act and the Reproductive Rights Law Enforcement Act. The bulletin further addressed the need for more accurate reporting of the crimes covered within those legislative acts. POST has already received numerous inquiries related to this bulletin.
- **Telecourse Revision:**
Because of the limited use made of the telecourse developed by POST, the Advisory Committee discussed what content would be helpful in updating it. While the consensus

of the Advisory Committee was that most of the segments in the telecourse were still pertinent, the priority for revision was the inclusion of the reporting requirements for ARRC crimes as well as several newer scenarios depicting recent events at statewide reproductive health care provider locations. The telecourse revisions have already been started and distribution of the updated DVD telecourse is anticipated by late spring.

- **Model Policy Development:**

The Advisory Committee was informed that POST could only develop such policies if they received a directive from the Legislature to do so. One of the legislative recommendations, therefore, is that POST be so directed.

IV. Recommendations of the Advisory Committee

Recommendations to the Legislature

In its review of the plan for implementation of SB 780 (Ortiz) during the summer and fall of 2007, the Advisory Committee on Anti-Reproductive Rights Crimes (ARRC) developed a set of recommendations to the Legislature. Because of the limited implementation of the California FACE Act and the Reproductive Rights Law Enforcement Act, a priority recommendation relates to extension of the January 1, 2009, sunset date for the Reproductive Rights Law Enforcement Act.

Recommendation 1: Extend Sunset on the Reproductive Rights Law Enforcement Act

The Legislature should extend the sunset date for the Reproductive Rights Law Enforcement Act to January 1, 2014 with a second report of the Advisory Committee due by January 1, 2012.

The extension of the sunset will allow for the following:

- Adequate time for effectively training law enforcement about the reporting requirements on Anti-Reproductive Rights Crimes
- Adequate time for law enforcement agencies to collect and analyze more complete data regarding anti-reproductive rights crimes
- Adequate time for the Attorney General's office to analyze data that has been more accurately collected and submitted to the DOJ
- The continuation of the advisory committee of subject matter experts to convene and make further recommendations to the legislature regarding the Reproductive Rights Law Enforcement Act and other issues related to anti-reproductive rights crimes, as needed.

Recommendation 2: Establishment of Bubble and Buffer Zones

The Legislature should adopt a statute similar to that of the State of Colorado that creates an 8-foot no-approach bubble zone around any person within a buffer zone that stretches 100 feet from the entrance to a health care facility and makes it a misdemeanor to obstruct entry to or exit from a health care facility.

In the Attorney General's Report on SB 780, the establishment of a buffer zone was one strategy considered. It received overwhelming support from the health care facility staff responding to the validation survey. Neither the district attorney staff nor the police officers responding to the survey opposed such a zone, but were undecided. Had there been true consultation with subject matter experts in the development of the Attorney General's Report, this particular recommendation would have been included as a means of providing greater protection to clinics and their clients.

The Advisory Committee recommends the establishment of buffer zones and extensively discussed whether buffer zones would violate the constitutional right to freedom of speech. Given the Supreme Court's ruling regarding the State of Colorado law buffer zone law (see page 11 of this report) that such a law was not a violation of free speech, the Advisory Committee recommends that the Legislature consider enactment of a statute that meets the requirements of the Colorado law. In addition, the Committee also recommends that any legislation should include a grandfather clause for local statutes that exceed the state requirements.

Recommendation 3: Direct POST to Develop Guidelines and a Model Policy

The Legislature should direct POST to develop guidelines and a model policy on ARRC reporting and enforcement for use by law enforcement agencies, utilizing recommendations 1-12, 14, and 15 of the DOJ Special Report to the Legislature on Senate Bill 780.*

The Legislature should further direct POST to include ARRC reporting and related penal code sections within appropriate curriculums and programs, including Basic Academy and field training, as well as Continuing Professional Training (CPT) requirements.

*(See page 49 of the DOJ Special Report located at <http://ag.ca.gov/cjsc/publications/misc/net780/rpt.pdf> or search for "Special Report to the Legislature on Senate Bill 780".)

In order for POST to develop the model policy and guidelines, the Legislature must provide a directive to them.

Sampling phone calls by POST staff and California Commission on the Status of Women staff to local law enforcement agencies revealed that there is little or no awareness of the legal requirements of either the California FACE Act or the Reproductive Rights Law Enforcement

Act. Agencies across the state will benefit from having the assistance from POST on the critical issue of anti-reproductive rights crimes. In addition, law enforcement officers will respond with greater knowledge and understanding to any calls regarding incidents at reproductive health care clinics.

Recommendations to the Attorney General

Recommendation 4: Develop an Information System on ARRC

The Office of the Attorney General should develop a simple information system, in consultation with the subject matter experts that served on the ARRC Advisory Committee, to inform reproductive health care providers of the Reproductive Rights Law Enforcement Act.

The system should result in the following:

- empower the providers to work with their local law enforcement agencies,
- allow providers to report ARRCs to the DOJ directly, and
- provide for the DOJ to follow up with local law enforcement agencies that fail to report ARRCs to the DOJ.

Information to providers should include the requirement that law enforcement agencies report every ARRC, including criminal violations of injunctions, criminal violations of local ordinances, and crimes to which officers do not respond in person.

Options for consideration as part of the system should include preparation and posting of the following three documents on the DOJ website:

- a) A one-page official statement explaining the law, the importance of enforcement, and the reporting requirement to be used by reproductive health care providers. This could be distributed to clients and given to officers who respond to ARRC calls, but are unfamiliar with the law or reporting requirements.
- b) A simple official form for use by complainants and witnesses to give to local law enforcement agencies for reporting ARRCs. This form could also be used if a procedure were developed for complainants and witnesses to report directly to the DOJ. In this case, the DOJ could follow up with local law enforcement agencies regarding any unreported ARRCs.
- c) An on-line ARRC tracking form to allow victims to enter ARRCs into a database. Reports could be compared with those submitted by law enforcement agencies. In case of a discrepancy in reporting, local law enforcement agencies should be contacted by the DOJ to inquire about it.

Reproductive health care providers consistently shared experiences with the Advisory Committee regarding the failure of local law enforcement to respond to calls from reproductive health care clinics, clients, or local residents reporting ARRC incidents. According to providers, the benefit of the doubt is often given to demonstrators. Unfortunately as a result, many ARRC incidents are unreported to the DOJ. It is the intent and expectation of the Advisory Committee that the strategies recommended would result in more consistency and accuracy in reporting and enforcement of ARRC.

Recommendation 5: ARRC Briefings

The Office of the Attorney General should take the lead to plan and conduct briefings in key regions of the state where concern exists regarding anti-reproductive rights crimes, enforcement, reporting, and related matters for law enforcement officers and clinic personnel, jointly.*

**See intent language in Section 1(d), Chapter 899, Statutes of 2001, enacted by Senate Bill 780 (Ortiz).*

The key regions of the state include Chico, Redding, Riverside County, San Diego, Sacramento County and other locations that may be identified in the future by provider organizations on the Advisory Committee, local law enforcement agencies, or the DOJ.

Individuals to involve in planning and conducting the briefings should include POST, the local police chief and/or sheriff, the U.S. Attorney's Office, the DOJ Bureau of Investigation and Intelligence, the National Abortion Federation, the Feminist Majority Foundation, Planned Parenthood Federation of American, and appropriate California subject-matter experts including local providers.

The briefings should include, but not be limited to:

- a) The updated POST telecourse;
- b) Information on the responsibility of law enforcement agencies to enforce court orders and local ordinances, including the specifics of local current orders and ordinances;
- c) Reporting requirements and procedures;
- d) Presentations by local providers on the history of local anti-reproductive rights crimes; and
- e) Information on multi-mission criminal extremism as defined in Penal Code Section 13519.6(b)(6)*, the importance of reporting such extremism to law enforcement terrorism liaison officers and the need to share information through the California Joint Regional Information Exchange System.

*"Multi-mission criminal extremism is the nexus of certain hate crimes, antigovernment extremist crimes, anti-reproductive rights crimes, and crimes committed in whole or in part because of the victims' actual or perceived homelessness."

Briefings should be made available to all law enforcement officers and affected clinic personnel, with a particular emphasis on areas in the state with frequent ARRC incidents.

Recommendation 6: Presentations to Law Enforcement Organizations

The Office of the Attorney General should request time to present the ARRC reporting requirements, as well as information on multi-mission criminal extremism during the statewide meetings of the California police chiefs' and sheriffs' associations.

The presentation should include the definition of ARRC, including criminal violations that meet the statutory definition of an ARRC and that violate court orders and local ordinances; should stress the need for full reporting; and should provide information about training available at the local level, including training on multi-mission criminal extremism provided in consultation with the Bureau of Investigation and Intelligence.

Recommendations to the California Commission on the Status of Women

Recommendation 7: Sponsor Legislation to Extend Sunset Date and Develop Model Guidelines

The California Commission on the Status of Women should sponsor legislation in 2008 to extend the Reproductive Rights Law Enforcement Act sunset date and to direct POST to develop the model law enforcement policies and guidelines on ARRC reporting and enforcement.

Recommendation 8: Sponsor Legislation on other Recommendations

The California Commission on the Status of Women should sponsor legislation in 2008 and subsequent years, according to the Commission's best judgment, to implement other legislative recommendations of the advisory committee.

Recommendation 9: Serve as Advocate for ARRC Recommendations

The California Commission on the Status of Women should advocate for and monitor responses by the Legislature, DOJ, and POST to the advisory committee's recommendations and periodically provide information to the subject matter experts who served on the Advisory Committee.

Recommendation 10: Assist DOJ with ARRC Subject Matter Experts

The California Commission on the Status of Women should offer to provide assistance to the DOJ in consulting with ARRC subject matter experts, as required by Penal Code Section 13777(b).

Recommendation 11: Develop ARRC Fact Sheet

The California Commission on the Status of Women should develop a fact sheet on anti-reproductive rights crimes, for use by clients, patients, and providers, including information on First Amendment rights.

V. Conclusion

The Advisory Committee on Anti-reproductive rights Crimes encourages the Legislature, the Attorney General's Office, and the California Commission on the Status of Women to take action on these recommendations. The ultimate goal of these recommendations is to assure that providers and clients of reproductive health care, and any individuals assisting them, can exercise their constitutional rights safely, with appropriate protection from local law enforcement agencies.

VI. Appendices

Appendix A

SB 780 Protection of the exercise of constitutional rights

BILL NUMBER: SB 780 CHAPTERED
BILL TEXT

CHAPTER 899
FILED WITH SECRETARY OF STATE OCTOBER 14, 2001
APPROVED BY GOVERNOR OCTOBER 14, 2001
PASSED THE SENATE SEPTEMBER 12, 2001
PASSED THE ASSEMBLY SEPTEMBER 6, 2001
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AMENDED IN ASSEMBLY JULY 17, 2001
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AMENDED IN SENATE JUNE 4, 2001
AMENDED IN SENATE MAY 15, 2001
AMENDED IN SENATE MAY 9, 2001
AMENDED IN SENATE MAY 1, 2001
AMENDED IN SENATE APRIL 19, 2001
AMENDED IN SENATE APRIL 17, 2001
AMENDED IN SENATE MARCH 29, 2001

INTRODUCED BY Senators Ortiz, Chesbro, Karnette, Kuehl, Murray, and Speier
(Principal coauthor: Assembly Member Jackson)
(Coauthors: Assembly Members Alquist, Aroner, Chavez, Koretz, Nation, Richman, Shelley,
and Steinberg)

FEBRUARY 23, 2001

An act to add Title 11.7 (commencing with Section 423) of Part 1
of, and to add and repeal Title 5.7 (commencing with Section 13775)
to Part 4 of, the Penal Code, relating to the protection of
constitutional rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 780, Ortiz. Protection of the exercise of constitutional rights.

Existing provisions of federal law make it a crime and provide a civil remedy for the
commission of certain activities that interfere with a person's access to reproductive health

services facilities or with a person's participation in religious services or that damage or destroy property of a reproductive health facility or place of worship.

Existing provisions of state law authorize a civil action for damages resulting from the commission of specified activities that interfere with a person's access to a health facility or with the facility's functioning, and a court in which a proceeding for this relief is filed, is required to take all reasonable action to protect, as specified, the parties and witnesses in the matter.

Under other existing provisions of state law, it is a crime to make a threat, as specified, causing a person to refrain from engaging in a religious service or to commit an act of terrorism, as specified, at a place of religious worship or at a location where abortion counseling services, education, or other specified activities are conducted. Existing law also makes it a crime to damage or destroy the real or personal property of a place of worship or to interfere with the exercise of a person's religious beliefs because of his or her religion.

Under existing law, the Attorney General is required to collect from local law enforcement agencies information relating to crimes motivated by, among other personal characteristics, a person's religion, which the Department of Justice analyzes and submits in an annual report to the Legislature.

This bill would add similar provisions in state law to make it a crime and would provide a civil remedy for the commission of the acts prohibited under federal law, as described above. The bill would require a court in proceedings regarding the prohibited acts to take all actions reasonably required to protect the safety and privacy of the parties, witnesses, and persons who are victims, or at risk of becoming victims, of the prohibited activities. This bill would allow specified persons to use pseudonyms in civil actions related to prohibited acts. The bill would authorize as remedies in the civil action injunctive relief, compensatory and punitive damages, attorney's fees, costs of the suit, and statutory damages. This bill would also authorize the Attorney General, a district attorney, or a city attorney to file an action to enjoin prohibited acts, for compensatory damages to persons aggrieved by prohibited acts, and for civil penalties, as specified.

The bill would also require the Attorney General to assume specified duties related to planning, information gathering, and analysis with respect to anti-reproductive rights crimes, as defined. The bill would also require the Attorney General to submit various reports on this issue to the Legislature. The bill would require the Commission on Peace Officer Standards and Training to develop a training course on anti-reproductive rights crimes. This bill would provide that the requirements for information gathering, reporting, planning, and course development related to anti-reproductive rights crimes would be repealed on January 1, 2007.

Because this bill would create a new crime and would impose a reporting requirement on local law enforcement agencies, it would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds the following:

(a) Federal law enforcement activities proved effective between 1993 and 2001, in reducing and punishing crimes intended to violate a woman's right to reproductive choice. However, the level and threat of those crimes in 2001 remained unacceptably high, and continued and increased law enforcement remained necessary.

(b) Federal actions that proved effective in reducing and punishing these crimes include the vigorous criminal and civil enforcement of the Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248) by the United States Department of Justice and the United States Attorney's Office; the creation by the United States Department of Justice of the national Task Force on Violence Against Health Care Providers that gathers and analyzes information, which is made available to law enforcement agencies and prosecutors, on threats against reproductive health service providers and those persons suspected of engaging in this activity; the creation by the United States Attorney's Office of regional task forces on violence against abortion providers that coordinate federal, state, and local law enforcement efforts in connection with preventing this activity; the provision of instruction by the United States Marshals Service to ensure reproductive health services providers are able to promptly communicate threats they receive to the appropriate federal, state, and local law enforcement officials; other security training and advice provided by the United States Marshals Services and the Bureau of Alcohol, Tobacco and Firearms to reproductive health service providers; the protection provided by the United States Marshals Service, the Bureau of Alcohol, Tobacco, and Firearms, and the Federal Bureau of Investigation to those persons most at risk from anti-reproductive rights crime; the training of law enforcement officers and reproductive health services providers in regional sessions sponsored by the United States Attorney's Offices in cooperation with the Feminist Majority Foundation, the National Abortion Federation, and the Planned Parenthood Federation of America, and certified by the Commission on Peace Officer Standards and Training; and the instruction provided by the United States Department of Justice and Federal Bureau of Investigation personnel in those training sessions.

(c) It is the intent of the Legislature that state and local law enforcement agencies continue and build on these services in California.

(d) (1) It is the intent of the Legislature that the Commission on Peace Officer Standards and Training, pursuant to Section 13778 of the Penal Code and in cooperation with the Department of Justice and other subject matter experts, provide for regular, periodic, continuing professional training of peace officers throughout California, and that this training take place in conjunction, when appropriate, with training of reproductive health service providers funded by noncommission sources.

(2) It is the intent of the Legislature that training pursuant to Section 13778 of the Penal Code include information on crimes, including antigovernment extremist crimes and certain hate crimes motivated by hostility to real or perceived ethnic background or sexual orientation, commonly committed by some of the same persons who commonly commit anti-reproductive rights crimes of violence. Likewise, it is the intent of the Legislature that the guidelines and course of instruction and training pursuant to Section 13519.6 of the Penal Code include information on these crimes.

(e) Nothing in this act is intended to define anti-reproductive rights crimes or antigovernment extremist crimes as hate crimes, or otherwise to expand or change the definition of hate crimes.

(f) It is the intent of the Legislature that nothing in this act, and no action by anyone pursuant to this act, stigmatize anyone solely because of his or her political or religious beliefs, because of his or her advocacy of any lawful actions, or because of his or her exercise of the rights of free speech or freedom of religion, and that nothing in this act, and no actions by anyone pursuant to this act, otherwise harm anyone because of his or her beliefs, constitutionally protected speech, or lawful actions.

SEC. 2. Title 11.7 (commencing with Section 423) is added to Part 1 of the Penal Code, to read:

TITLE 11.7. CALIFORNIA FREEDOM OF ACCESS TO CLINIC AND CHURCH ENTRANCES ACT

423. This title shall be known and may be cited as the California Freedom of Access to Clinic and Church Entrances Act, or the California FACE Act.

423.1. The following definitions apply for the purposes of this title:

(a) "Crime of violence" means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.

(b) "Interfere with" means to restrict a person's freedom of movement.

(c) "Intimidate" means to place a person in reasonable apprehension of bodily harm to herself or himself or to another.

(d) "Nonviolent" means conduct that would not constitute a crime of violence.

(e) "Physical obstruction" means rendering ingress to or egress from a reproductive health services facility or to or from a place of religious worship impassable to another person, or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person.

(f) "Reproductive health services" means reproductive health services provided in a hospital, clinic, physician's office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

(g) "Reproductive health services client, provider, or assistant" means a person or entity that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person's request, to obtain or provide any services in a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility.

(h) "Reproductive health services facility" includes a hospital, clinic, physician's office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located.

423.2. Every person who, except a parent or guardian acting towards his or her minor child or ward, commits any of the following acts shall be subject to the punishment specified in Section 423.3.

(a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive

health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.

(b) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(c) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.

(d) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(e) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility.

(f) Intentionally damages or destroys the property of a place of religious worship.

423.3. (a) A first violation of subdivision (c) or (d) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed two thousand dollars (\$2,000).

(b) A second or subsequent violation of subdivision (c) or (d) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed five thousand dollars (\$5,000).

(c) A first violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed twenty-five thousand dollars (\$25,000).

(d) A second or subsequent violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed fifty thousand dollars (\$50,000).

(e) In imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in Rules 4.421 and 4.423 of the California Rules of Court, and shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(f) This title establishes concurrent state jurisdiction over conduct that is also prohibited by the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), which provides for more severe misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. State law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes, and shall seek federal prosecutions when appropriate.

(g) No person shall be convicted under this article for conduct in violation of Section 423.2 that was done on a particular occasion where the identical conduct on that occasion was the basis for

a conviction of that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248).

423.4. (a) A person aggrieved by a violation of Section 423.2 may bring a civil action to enjoin the violation, for compensatory and punitive damages, and for the costs of suit and reasonable fees for attorneys and expert witnesses, except that only a reproductive health services client, provider, or assistant may bring an action under subdivision (a), (c), or (e) of Section 423.2, and only a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom in a place of religious worship, or the entity that owns or operates a place of religious worship, may bring an action under subdivision (b), (d), or (f) of Section 423.2. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of a final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of one thousand dollars (\$1,000) per exclusively nonviolent violation, and five thousand dollars (\$5,000) per any other violation, for each violation committed.

(b) The Attorney General, a district attorney, or a city attorney may bring a civil action to enjoin a violation of Section 423.2, for compensatory damages to persons aggrieved as described in subdivision (a) and for the assessment of a civil penalty against each respondent. The civil penalty shall not exceed two thousand dollars (\$2,000) for an exclusively nonviolent first violation, and fifteen thousand dollars (\$15,000) for any other first violation, and shall not exceed five thousand dollars (\$5,000) for an exclusively nonviolent subsequent violation, and twenty-five thousand dollars (\$25,000) for any other subsequent violation. In imposing civil penalties pursuant to this subdivision, the court shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(c) No person shall be found liable under this section for conduct in violation of Section 423.2 done on a particular occasion where the identical conduct on that occasion was the basis for a finding of liability by that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248).

423.5. (a) (1) The court in which a criminal or civil proceeding is filed for a violation of subdivision (a), (c), or (e) of Section 423.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A reproductive health services client, provider, or assistant who is a party or witness in the proceeding.

(B) A person who is a victim of, or at risk of becoming a victim of, conduct prohibited by subdivision (a), (c), or (e) of Section 423.2.

(2) The court in which a criminal or civil proceeding is filed for a violation of subdivision (b), (d), or (f) of Section 423.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(B) An entity that owns or operates a place of religious worship.

(b) Restraining orders issued pursuant to paragraph (1) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (1) of subdivision (a) when reasonably required to safeguard the health,

safety, or privacy of those persons. Restraining orders issued pursuant to paragraph (2) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

(c) A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (2) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

423.6. This title shall not be construed for any of the following purposes:

(a) To impair any constitutionally protected activity, or any activity protected by the laws of California or of the United States of America.

(b) To provide exclusive civil or criminal remedies or to preempt or to preclude any county, city, or city and county from passing any law to provide a remedy for the commission of any of the acts prohibited by this title or to make any of those acts a crime.

(c) To interfere with the enforcement of any federal, state, or local laws regulating the performance of abortions or the provision of other reproductive health services.

(d) To negate, supercede, or otherwise interfere with the operation of any provision of Chapter 10 (commencing with Section 1138) of Part 3 of Division 2 of the Labor Code.

(e) To create additional civil or criminal remedies or to limit any existing civil or criminal remedies to redress an activity that interferes with the exercise of any other rights protected by the First Amendment to the United States Constitution or of Article I of the California Constitution.

(f) To preclude prosecution under both this title and any other provision of law, except as provided in subdivision (g) of Section 423.3.

SEC. 3. Title 5.7 (commencing with Section 13775) is added to Part 4 of the Penal Code, to read:

TITLE 5.7. REPRODUCTIVE RIGHTS LAW ENFORCEMENT ACT

13775. This title shall be known and may be cited as the Reproductive Rights Law Enforcement Act.

13776. The following definitions apply for the purposes of this title:

(a) "Anti-reproductive rights crime" means a crime committed partly or wholly because the victim is a reproductive health services client, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or any class of persons or entities from becoming or remaining a reproductive health services client, provider, or assistant. "Anti-reproductive rights crime" includes, but is not limited to, a violation of subdivision (a) or (c) of Section 423.2.

(b) "Subject matter experts" includes, but is not limited to, law enforcement agencies experienced with anti-reproductive rights crimes, and organizations such as the American Civil Liberties Union, the American College of Obstetricians and Gynecologists, the California Abortion and Reproductive Rights Action League, the California Medical Association, the Feminist Majority Foundation, the National Abortion Federation, the National Organization for

Women, and the Planned Parenthood Federation of America that represent reproductive health services clients, providers, and assistants.

(c) "Crime of violence," "nonviolent," "reproductive health services;" "reproductive health services client, provider, or assistant;" and "reproductive health services facility" each has the same meaning as set forth in Section 423.1.

13777. (a) Except as provided in subdivision (d), the Attorney General shall do each of the following:

(1) Collect and analyze information relating to anti-reproductive rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats. The analysis shall distinguish between crimes of violence, including, but not limited to, violations of subdivisions (a) and (e) of Section 423.2, and nonviolent crimes, including, but not limited to, violations of subdivision (c) of Section 423.2. The Attorney General shall make this information available to federal, state, and local law enforcement agencies and prosecutors in California.

(2) Direct local law enforcement agencies to report to the Department of Justice, in a manner that the Attorney General prescribes, any information that may be required relative to anti-reproductive rights crimes. The report of each crime that violates Section 423.2 shall note the subdivision that prohibits the crime. The report of each crime that violates any other law shall note the code, section, and subdivision that prohibits the crime. The report of any crime that violates both Section 423.2 and any other law shall note both the subdivision of Section 423.2 and the other code, section, and subdivision that prohibits the crime.

(3) On or before July 1, 2003, and every July 1 thereafter, submit a report to the Legislature analyzing the information it obtains pursuant to this section.

(4) (A) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive rights crimes, and to carry out the legislative intent expressed in subdivisions (c), (d), (e), and (f) of Section 1 of the act that enacts this title in the 2001-2002 session of the Legislature.

(B) Make a report on the plan to the Legislature by December 1, 2002. The report shall include recommendations for any legislation necessary to carry out the plan.

(5) Make a report to the Legislature in 2005, that evaluates the implementation of the act that enacts this title in the 2001-02 Regular Session, any legislation recommended pursuant to subparagraph (B) of paragraph (4), and the plan developed pursuant to subparagraph (A) of paragraph (4). The report shall also include a recommendation concerning whether the Legislature should extend or repeal the sunset date in Section 13779 and recommendations regarding any other necessary legislation.

(b) In carrying out his or her responsibilities under this section, the Attorney General shall consult the Governor, the Commission on Peace Officer Standards and Training, and other subject matter experts.

(c) To avoid production and distribution costs, the Attorney General may submit the reports that this section requires electronically or as part of any other reports that he or she submits to the Legislature, and shall post the reports that this section requires on the Department of Justice Web site.

(d) The Attorney General shall implement this section to the extent the Legislature appropriates funds in the Budget Act or another statute for this purpose.

13778. (a) The Commission on Peace Officer Standards and Training, utilizing available resources, shall develop a two-hour telecourse on anti-reproductive rights crimes and make the

telecourse available to all California law enforcement agencies as soon as practicable after chaptering of the act that enacts this title in the 2001-2002 session of the Legislature.

(b) Persons and organizations, including, but not limited to, subject-matter experts, may make application to the commission, as outlined in Article 3 (commencing with Section 1051) of Division 2 of Title 11 of the California Code of Regulations, for certification of a course designed to train law enforcement officers to carry out the legislative intent expressed in paragraph (1) of subdivision (d) of Section 1 of the act that enacts this title in the 2001-02 Regular Session.

(c) In developing the telecourse required by subdivision (a), and in considering any applications pursuant to subdivision (b), the commission, utilizing available resources, shall consult the Attorney General and other subject matter experts, except where a subject matter expert has submitted, or has an interest in, an application pursuant to subdivision (b).

13779. This title shall remain in effect until January 1, 2007, and as of that date is repealed unless a later enacted statute deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Appendix B

SB 603 Law enforcement: anti-reproductive rights crimes

BILL NUMBER: SB 603 CHAPTERED
BILL TEXT

CHAPTER 481

FILED WITH SECRETARY OF STATE SEPTEMBER 26, 2006

APPROVED BY GOVERNOR SEPTEMBER 26, 2006

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AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN ASSEMBLY MAY 23, 2006

AMENDED IN SENATE MAY 25, 2005

AMENDED IN SENATE MAY 4, 2005

INTRODUCED BY Senator Ortiz

FEBRUARY 18, 2005

An act to amend Sections 13776, 13777, and 13779 of, and to add Section 13777.2 to, the Penal Code, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

SB 603, Ortiz Law enforcement: anti-reproductive rights crimes.

Existing law requires the Attorney General to assume specified duties relating to planning, information gathering, and analysis with respect to anti-reproductive rights crimes, as defined, including consultation with specified subject matter experts. Existing law also required the Attorney General to make a report to the Legislature in 2005 on the issue of anti-reproductive rights crimes. Existing law is to be repealed as of January 1, 2007, unless a later enacted statute deletes or extends that date.

This bill would add and delete specified organizations from the list of subject matter experts. This bill would also require the Commission on the Status of Women to convene an advisory committee that would be responsible for reporting, as specified, to the Legislature and specified agencies on the implementation of the Reproductive Rights Law Enforcement Act and the effectiveness of the plan developed by the Attorney General.

Because the bill would extend the operative date of provisions that would impose reporting requirements on local governments, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13776 of the Penal Code is amended to read:

13776. The following definitions apply for the purposes of this title:

(a) "Anti-reproductive rights crime" means a crime committed partly or wholly because the victim is a reproductive health services client, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or any class of persons or entities from becoming or remaining a reproductive health services client, provider, or assistant. "Anti-reproductive rights crime" includes, but is not limited to, a violation of subdivision (a) or (c) of Section 423.2.

(b) "Subject matter experts" includes, but is not limited to, the Commission on the Status of Women, law enforcement agencies experienced with anti-reproductive rights crimes, including the Attorney General and the Department of Justice, and organizations such as the American Civil Liberties Union, the American College of Obstetricians and Gynecologists, the California Council of Churches, the California Medical Association, the Feminist Majority Foundation, NARAL Pro-Choice California, the National Abortion Federation, the California National Organization for Women, the Planned Parenthood Federation of America, Planned Parenthood Affiliates of California, and the Women's Health Specialists clinic that represent reproductive health services clients, providers, and assistants.

(c) "Crime of violence," "nonviolent," "reproductive health services;" "reproductive health services client, provider, or assistant;" and "reproductive health services facility" each has the same meaning as set forth in Section 423.1.

SEC. 2. Section 13777 of the Penal Code is amended to read:

13777. (a) Except as provided in subdivision (d), the Attorney General shall do each of the following:

(1) Collect and analyze information relating to anti-reproductive rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats. The analysis shall distinguish between crimes of violence, including, but not limited to, violations of subdivisions (a) and (e) of Section 423.2, and nonviolent crimes, including, but not limited to, violations of subdivision (c) of Section 423.2. The Attorney General shall make this information available to federal, state, and local law enforcement agencies and prosecutors in California.

(2) Direct local law enforcement agencies to report to the Department of Justice, in a manner that the Attorney General prescribes, any information that may be required relative to anti-reproductive rights crimes. The report of each crime that violates Section 423.2 shall note the subdivision that prohibits the crime. The report of each crime that violates any other law shall note the code, section, and subdivision that prohibits the crime. The report of any crime that violates both Section 423.2 and any other law shall note both the subdivision of Section 423.2 and the other code, section, and subdivision that prohibits the crime.

(3) On or before July 1, 2003, and every July 1 thereafter, submit a report to the Legislature analyzing the information it obtains pursuant to this section.

(4) (A) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive rights crimes, and to carry out the legislative intent expressed in subdivisions (c), (d), (e), and (f) of Section 1 of the act that enacts this title in the 2001-02 Regular Session of the Legislature.

(B) Make a report on the plan to the Legislature by December 1, 2002. The report shall include recommendations for any legislation necessary to carry out the plan.

(b) In carrying out his or her responsibilities under this section, the Attorney General shall consult the Governor, the Commission on Peace Officer Standards and Training, and other subject matter experts.

(c) To avoid production and distribution costs, the Attorney General may submit the reports that this section requires electronically or as part of any other reports that he or she submits to the Legislature, and shall post the reports that this section requires on the Department of Justice Web site.

(d) The Attorney General shall implement this section to the extent the Legislature appropriates funds in the Budget Act or another statute for this purpose.

SEC. 3. Section 13777.2 is added to the Penal Code, to read:

13777.2. (a) The Commission on the Status of Women shall convene an advisory committee consisting of one person appointed by the Attorney General and one person appointed by each of the organizations named in subdivision (b) of Section 13776 that chooses to appoint a member, and any other subject matter experts the commission may appoint. The advisory committee shall elect its chair and any other officers of its choice.

(b) The advisory committee shall make a report by December 31, 2007, to the Committees on Health, Judiciary, and Public Safety of the Senate and Assembly, to the Attorney General, the Commission on Peace Officer Standards and Training, and the Commission on the Status of Women. The report shall evaluate the implementation of Chapter 899, Statutes of 2001 and the effectiveness of the plan developed by the Attorney General pursuant to subparagraph (A) of paragraph (4) of Section 13777. The report shall also include recommendations concerning whether the Legislature should extend or repeal the sunset dates in Section 13779, recommendations regarding any other legislation, and recommendations for any other actions by the Attorney General, Commission on Peace Officer Standards and Training, or the Commission on the Status of Women.

(c) The Commission on the Status of Women shall transmit the report of the advisory committee to the appropriate committees of the Legislature, including, but not limited to, the Committees on Health, Judiciary, and Public Safety in the Senate and Assembly, and make the report available to the public, including by posting it on the Commission on the Status of Women's Web site. To avoid production and distribution costs, the Commission on the Status of Women may submit the report electronically or as part of any other report that the Commission on the Status of Women submits to the Legislature.

(d) The Commission on Peace Officer Standards and Training shall make the telecourse that it produced in 2002 pursuant to subdivision (a) of Section 13778 available to the advisory committee. However, before providing the telecourse to the advisory committee or otherwise making it public, the commission shall remove the name and face of any person who appears in the telecourse as originally produced who informs the commission in writing that he or she has a reasonable apprehension that making the telecourse public without the removal will endanger his or her life or physical safety.

(e) Nothing in this section requires any state agency to pay for compensation, travel, or other expenses of any advisory committee member.

SEC. 4. Section 13779 of the Penal Code is amended to read:

13779. This title shall remain in effect until January 1, 2009, and as of that date is repealed unless a later enacted statute deletes or extends that date.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.